

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

JERRY D. JONES,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 13-0974-CV-W-ODS
	)	
BOB EVANS FARMS, INC.,	)	
et al.,	)	
	)	
Defendants.	)	

ORDER DENYING DEFENDANT BOB EVANS FARMS, INC.'S  
MOTION FOR SANCTIONS

Jerry D. Jones ("Plaintiff") filed an employment discrimination action against Bob Evans Farms, Inc., Nick Noble, Joy Willis, and Teresa Scroggins ("Defendants"). During discovery, Bob Evans Farms, Inc. ("Bob Evans") noticed a deposition for Plaintiff. (Doc. #37-3). Plaintiff did not attend this deposition. Bob Evans filed this Motion for Sanctions against Plaintiff due to his failure to attend the deposition. (Doc. #37). For the following reasons, the Motion is denied.

Federal Rule of Civil Procedure 37(d)(1)(A) states a court may order sanctions against a party who fails to attend a properly noticed deposition. Here, Plaintiff's deposition was scheduled to begin at approximately 10:15 a.m. or 10:30 a.m. on May 20, 2014. (Doc. # 37-2, #37-5). Plaintiff asserts he was unable to attend the deposition because he was in the hospital due to heart related issues. Defendants contend Plaintiff's medical records do not support this assertion because the medical records reflect Plaintiff did not receive treatment at Truman Medical Center until approximately 2:30 p.m. Further, Defendants conclude the medical records suggest Plaintiff's heart issues did not begin until the afternoon of May 20, 2014.

The Court finds that the Record is insufficiently clear regarding when Plaintiff's heart related issues commenced. Plaintiff repeatedly states he began suffering from heart issues in the morning of May 20, 2014. (Doc. #37-7, p. 6, 7, 11). Additionally,

Plaintiff states he first went to Research Medical Center before seeking treatment at Truman Medical Center. (Doc. #37-7, p. 7). While it is clear Plaintiff did not receive treatment at Truman Medical Center until approximately 2:30 p.m. on May 20, 2014, it is not clear when Plaintiff's medical issues began on that day. Consequently, the Court finds sanctions against Plaintiff are inappropriate in this matter, and Bob Evans's Motion is denied.

IT IS SO ORDERED.

DATE: February 5, 2015

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT